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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,387	08/20/2003	Judith A. Reichenbach	P-4987P1P1P1	6144

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EXAMINER

HANDY, DWAYNE K

ART UNIT	PAPER NUMBER
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1743

MAIL DATE	DELIVERY MODE
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05/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/644,387	Applicant(s) REICHENBACH ET AL.	
	Examiner Dwayne K. Handy	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1-6,9-17,19-23 and 26-33 is/are rejected.
- 7) ☒ Claim(s) 7,8 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 26-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 26 recites the limitation "said container" in line 7. This is unclear, however. Applicant has referred to "at least first and second" containers" in line 2, and "one of said containers" in line 5 – therefore it is unclear which container is being referred to in the limitation of "said container" in line 7.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 10-17 and 19-23 rejected under 35 U.S.C. 102(b) as being anticipated by Konrad (5,871,700). This rejection was applied in Paragraph 6 of the previous Office Action (mailed 10/12/06). It remains in effect for all claims except for

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claims 7 and 8. The rejection has been removed for these claims in light of Applicant's Arguments.

5. Claims 1-3, 9, 10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gautsch (5,888,831). Gautsch teaches a liquid separation device. The device is best shown in Figures 2B and 3B. The device is comprised of an outer container (11) and inner container (12) closed by a common lid (126). One embodiment features an inner container having a flat bottom with perforations (Figure 2B). The other embodiment features an inner container having a spout (Fig. 3B). The Examiner submits that Figures 2B and 3B show a plurality of container assemblies – each assembly having an inner container nested within the outer container AND each inner container having a different volume than the other inner container. This is what the instant claims require.

Response to Arguments

6. The Examiner has removed the rejections based on the Iskra references as well as the previous USC 112, 2nd paragraph rejection in response to Applicant's Arguments submitted 3/12/07. The Examiner thanks Applicant for the explanation of the claimed device. These arguments were not persuasive for the Konrad reference, however.

7. Applicant has argued that Konrad does not show the features of the instant claims. The Examiner respectfully disagrees. Konrad shows a holding device

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comprised of nested containers. The device is best shown in Figures 1 and 5-9.

Konrad notes that one embodiment of the device may include a film (46) on the inside container instead of a painted or printed layer (column 9, lines 15-55). The Examiner submits that the embodiment having the film would yield an inner container that has a thickness that is different from the embodiment that does NOT have the film. In addition, this embodiment would then result in an assembly (the one including the film) having an inner container with a thickness that is greater than the assembly embodiment that does NOT have the film. This is what claims 1 and 3 of the instant claims requires – two assemblies having inner containers of different thickness and volume.

Allowable Subject Matter

8. Claims 24 and 25 are allowed. Claims 7, 8 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K. Handy whose telephone number is (571)-272-1259. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DKH
May 29, 2007


Jill Warden
Supervisory Patent Examiner
Technology Center 1700